

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ARMAND L. SMITH, BRAZOS ROYALTY
TRUST AND RIO PETRO, LTD., individually
and on behalf of all others similarly situated
private royalty and overriding royalty owners,

Plaintiffs,
v.
HESS CORPORATION,
Defendant.

CV 13-468 JCH-CG

SCHEDULING ORDER

THIS MATTER came before the Court on a FED. R. Civ. P. 16 scheduling conference conducted on August 15, 2013

In accordance with the Civil Justice Expense and Delay Reduction Plan adopted in compliance with the Civil Justice Reform Act, and pursuant to Title 28 U.S.C. § 473(a)(1), this case is assigned to a “standard” track classification.

This Scheduling Order pertains to discovery on class certification issues only. After Plaintiffs file their motion for class certification and that motion has been resolved by the trial judge, the Court will issue a second Scheduling Order setting forth case management deadlines, including discovery, on other issues.

Plaintiffs shall have until August 30, 2013, to join additional parties and to amend the pleadings. Defendant shall have until September 30, 2013, to join additional parties and to amend the pleadings.

The termination date for discovery on class certification issues is December 13, 2013, and discovery on class certification issues shall not be reopened, nor shall case management deadlines be modified, except by an order of the Court upon a showing of good cause. This deadline shall be construed to require that discovery be completed on or before the above date. Service of interrogatories or requests for production shall be considered timely only if the responses are due prior to the deadline. A notice to take deposition shall be considered timely only if the deposition takes place prior to the deadline. The pendency of dispositive motions shall not stay discovery.

Motions relating to discovery on class certification issues (including, but not limited to, motions to compel and motions for protective order) shall be filed with the Court and served on opposing parties by January 16, 2014. See D.N.M.LR-Civ. 7 for motion practice requirements and timing of responses and replies. This deadline shall not be construed to extend the twenty-one day time limit in D.N.M.LR-Civ. 26.6.

Plaintiffs shall identify to all parties in writing any expert witness to be used by Plaintiffs in connection with class certification issues, pursuant to FED. R. Civ. P. 26(a)(2)(B), no later than October 14, 2013. All other parties shall identify in writing any expert witness to be used by such parties in connection with class certification issues and to provide expert reports pursuant to FED. R. Civ. P. 26(a)(2)(B) no later than November 15, 2013.

Plaintiffs' motion for class certification under FED. R. Civ. P. 23 shall be filed with the Court, and served on the opposing party, by September 6, 2013. The timing of responses and replies as set forth in D.N.M.LR-Civ. 7 is altered for this motion, as follows:

- (i) Defendant shall file a memorandum setting forth their contentions regarding each class certification element specified in Fed. R. Civ. P. 23(a)(1)-(4) and

- (b)(3) by September 30, 2013;
- (ii) Defendant shall file a response to Plaintiff's motion for class certification by December 16, 2013; and
- (iii) Plaintiffs shall file a reply by January 6, 2013.

Plaintiffs' motion for class certification filed after the above date shall, in the discretion of the Court, be considered untimely.

If documents are attached as exhibits to motions, affidavits, or briefs, those parts of the exhibits that counsel want to bring to the attention of the Court must be highlighted in accordance with D.N.M.LR-Civ. 10.6.

Further case management deadlines will be set following resolution of the motion for class certification.

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE